

No. 9/3/87-6Lab./2329.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. The Mini Bank Manager (Secretary), The Kagdana Co-operative Credit and Service Society Ltd., Kagdana, Tehsil and District Sirsa :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 39 of 1986.

between

SHRI OM PARKASH, WORKMAN AND THE MANAGEMENT OF M/S. THE MINI
BANK MANAGER (SECRETARY), THE KAGDANA CO-OPERATIVE CREDIT AND SERVICE
SOCIETY LTD., KAGDANA, TEHSIL AND DISTRICT SIRSA.

Present:—

Shri H. S. Smaug, A. R. for the workman.

None for the respondent.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section (10) of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Om Parkash and the management of M/s The Mini Bank Manager (Secretary), The Kagdana Co-operative Credit and Service Society Ltd., Kagdana, Tehsil and District Sirsa, to this Court, for adjudication,— vide Haryana Government Gazette notification No. 7414—19, dated 25th February, 1986:—

Whether the termination of services of Shri Om Parkash son of Ganesh Ram is justified and in order? If not, to what relief is he entitled?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The petitioner was appointed as a Salesman through resolution of the respondent Society on 2nd February, 1980 on a fixed salary of Rs. 250 but on 30th September, 1985 his services were terminated without any prior notice or payment of retrenchment compensation. So, he has claimed reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, petitioner's appointment and termination is admitted. It is alleged that the petitioner's work and conduct was not satisfactory. So, his services were terminated on 12th February, 1985 and prior to that petitioner had been administered severe warnings about his unsatisfactory work and conduct and that many cases of embezzlement were detected against the petitioner which were referred to the Arbitrator for adjudication, before whom the petitioner accepted his liability. So, it is alleged that the petitioner's termination was legal and justified.

4. On the pleadings of the parties, the following issue was settled for decision by me on 25th July, 1986 :—

(1) As per terms of reference.

5. After the petitioner had closed his evidence and the case was fixed for evidence of the respondent, the respondent failed to pay the cost imposed for non-production of evidence on 30th December, 1986 and so, its defence was ordered to be closed on 29th January, 1987.

6. Learned Authorised Representative of the petitioner heard.

7. Before the Court is the unrebutted testimony of the petitioner. He has fully corroborated his claim filed in the Court. Petitioner's termination is not denied by the respondent. It is not in dispute that the petitioner had worked for about more than 5½ years before his termination was ordered. It is not alleged or proved that there was any break in the service of the petitioner. So, it has to be presumed to be continuous and un-interrupted. His termination could not have been brought about without complying with the mandatory provisions of section 25F of the Industrial Disputes Act, 1947. No compliance was made. So, his termination was illegal and unlawful. So, the same is ordered to be set aside. So, the petitioner is ordered to be reinstated with continuity of service and full back wages. Before parting with this order, I would like to observe that reinstatement will not exonerate the petitioner from his liability for any proceedings which the respondent may take resort to for recovery of the embezzled amount against the petitioner.

8. The reference is answered and returned accordingly.

Dated the 15th March, 1987.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endorsement No. 39-86/580, dated the 24th March, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the I. D. Act, 1947.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak,

The 6th May, 1987

No. 9/1/87-6Lab./2548.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of (i) Deputy Commissioner, Ambala; (ii) Administrator, Municipality, Shahzadpur :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA.

Ref. No. 48 of 1986

SHRI SHYAM SINGH S/O SHRI SURJA SINGH, VILLAGE FATEHPUR, P. O. BUREWAL, TEHSIL NARAINGARH (AMBALA) AND THE MANAGEMENT OF THE DEPUTY COMMISSIONER, AMBALA; (II) ADMINISTRATOR, MUNICIPALITY, SHAHZADPUR

Present.—

Shri Rajeshwar Nath, for workman.

Shri S. Bindra, for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of his powers conferred,—vide clause (c) of sub-section (i) of section 10 of Industrial Disputes Act, 1947 referred dispute between Shri Shyam Singh and Administrator, Municipality, Shahzadpur to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Shyam Singh is just and correct ; if not, to what relief is he entitled ?”

Workman through his demand notice alleged that he joined service of respondent-management on 2nd November, 1982. His services were terminated on 14th June, 1985 in violation of provisions of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management contested the dispute and contended that the reference is bad for mis-joinder of necessary parties. Workman was employed on daily wages as a Casual Labourer. He was neither a regular nor a confirmed employee, so on receipt of regular candidates from Deputy Commissioner, Ambala, services of the workman were terminated as per terms and conditions of the service.

Workman filed replication through which he re-iterated his own claim.

On the pleadings of the parties the following issues were framed :—

Issues :—

- (1) Whether termination of services of workman is just and illegal ; if so, its effect ? OPM
- (2) Whether reference is bad for mis-joinder of necessary parties; if so, its effect ? OPR
- (3) Relief.

I have heard Authorised Representatives of the parties and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under ; —

Issue No. 1 :

Workman in support of his case examined himself as AW-1. He supported his claim while in support of respondent-management. Shri Bali Ram, Secretary MW-1 supported the case of the workman. As per the evidence of the parties it is evident that workman joined service of respondent-management on daily wages and remained in service of respondent for more than 240 days. At the time of termination of his services no notice, no retrenchment compensation was given to him. So there is an clear violation of provisions of section 25(F) of Industrial Disputes Act, 1947.

In view of the above circumstances workman is entitled to reinstatement with continuity in service as well as pay in lieu of notice period and retrenchment compensation. Workman has not claimed back wages in his statement, so he is not entitled to back wages.

In place of workman regular candidates have been recruited without giving any preference to the workman who had rendered service more than 240 days to the respondent-management. It has been observed by the Hon'ble Punjab and Haryana High Court in case Nawanshahar Central Coop. Bank Ltd., and Labour Court reported in 1980—57 FJR, Page 206 that a workman who has been retrenched by the employer and who offers himself for re-employment for a similar post shall have preference over other person. The section is widely worded. It does not say that the section will be applicable if the employer wants to employ a workman on the same post from which the employee has been retrenched. It is wide enough to cover the case of a retrenched employee who has been recruited for a specific period on *ad hoc* basis. In my view, the finding of the Tribunal that the petitioner is entitled to the post of the clerk in preference to others under section 25 (H) is correct.

In view of the above Law and facts of this case the workman had a right of preference at the time of regular selection but he was not considered, so he is entitled to reinstatement and relief of continuity in service and pay in lieu of notice period as well as retrenchment compensation. So this issue is decided in favour of workman against the respondent-management.

Issue No. 2 :

The reference is not at all bad for mis-joinder of necessary parties because the real employer of the workman is Deputy Commissioner, Ambala. Services of workman were terminated under the orders of Deputy Commissioner, Ambala by Administrator, Municipality, Ambala. However no demand notice was served upon Administrator but he stands impleaded in this Industrial Dispute automatically. If the workman has impleaded Deputy Commissioner, Ambala, so reference is proper. The issue is decided in favour of workman against the respondent-management.

Issue No. 3 :

For the foregoing reasons on the basis of my issue-wise findings I pass order of reinstatement of the workman with continuity in service, pay in lieu of notice period as well as retrenchment compensation without back wages and pass award regarding the dispute in hand accordingly.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Dated the 10th February, 1987.

Endst. No. 324, dated the 10th February, 1987.

Forwarded (four copies) to the Financial Commissioner & Secretary to Government, Haryana, Labour & Employments Departments, Chandigarh, as required under section 15 of I.D. Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/1/87-6Lab./2556.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s Haryana Urban Development Authority, Karnal :—

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT,
AMBALA

Reference No. 130 of 1986

SHRI MAN SINGH, S/O SHRI SULEKH CHAND, VILLAGE GARHI JATTAN, P. O. GARHI JATTAN, DISTRICT KARNAL AND THE MANAGEMENT OF MESSRS HARYANA URBAN DEVELOPMENT AUTHORITY, KARNAL.

Present

Shri D. R. Pathak for workman.

None for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of its powers conferred,—vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Man Singh and Management of Messrs H.U.D.A., Karnal to this Court. The terms of the reference are as under :—

“Whether termination of services of Shri Man Singh is just and correct; if not, to what relief is he entitled?”

Workman through his demand notice, dated 20th August, 1985 alleged that he joined service of respondent-management as a Sweeper in February, 1982 through Employment Exchange. He had been in the service of Haryana Urban Development Authority up to 20th January, 1984; thereafter, he was transferred to Municipal Committee, Karnal. Municipal Committee, Karnal provided work up to 6th August, 1985. Thereafter no work was provided by the Municipal Committee, Karnal to him. Workman approached the respondent again to provide him some work, but the respondent declined to give him any job. He has come to know from the reliable sources that some new sweeper has been employed in his place. So he alleged that his termination without issuing any notice and without making payment of any retrenchment compensation is violative to the provisions of section 25 (F) of Industrial Disputes Act, 1947. He prayed for his reinstatement with continuity in service and with full back wages.

Respondent-management was served. It appeared. The reference was fixed for filing of reply for 11th December, 1986 but on that day respondent absented. *Ex parte* proceedings were taken up against it. In *ex parte* proceedings Shri Man Singh examined himself. He stated that he joined service of respondent-management on 19th January, 1982 as a sweeper through Employment Exchange. He worked in the service of respondent from 10th April, 1982 to 6th July, 1985. On 7th July, 1985 he was removed from service without issuing any notice and without making payment of retrenchment compensation. He further stated that sweepers of Karnal formed a union. He joined that union. Due to that fact his services were terminated by the respondent-management.

In view of the above evidence I am of the considered opinion that respondent-management voluntarily withdrew from the contest of the dispute. From the statement of workman it is established that he remained in the service of respondent-management for more than 240 days. On 7th July, 1985 his services were terminated without issuing any notice and without making payment of retrenchment compensation. This shows that respondent-management has violated the provisions of section 25 (F) of Industrial Disputes Act 1947. While terminating the services of the workman a new sweeper has been employed in his place. So this shows that the termination order regarding the services of the workman is illegal and unjust. I order that workman be reinstated with continuity in service and with full back wages. I pass award regarding the dispute in hand accordingly.

Dated the 4th February, 1987.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No. 305, dated the 10th February, 1987

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

The 20th May, 1987.

No. 9/3/87-6Lab/2613.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s. Alcon India, Plot No. 41, Sector 6, Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 316 of 1985

between

SHRI ATI NARAIN JHA, WORKMAN AND THE RESPONDENT-MANAGEMENT
OF M/S ALCON INDIA, PLOT NO. 41, SECTOR 6, FARIDABAD

Present:

Shri R. L. Sharma, for the workman.

Shri Jagbir Singh Bhadana, for the respondent.

AWARD

This reference under section 10(1)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred to as the said Act) was made to this Court by the State of Haryana (Department of Labour),—vide its endorsement No. ID/FD/47-85/23478—83, dated 31st May, 1985 to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Ati Narain Jha, workman and the respondent-management of M/s. Alcon India, Plot No. 41, Sector 6, Faridabad. Accordingly, it has been registered as reference No. 316 of 1985.

2. Ati Narain Jha was in the respondent's employment as a Assembler fitter and his monthly wages were Rs. 420. The un-disputed facts are that 15 days leave was sanctioned to him with effect from 19th February, 1985 to 5th March, 1985. In this respect his leave application and sanctioned order is Ex. M-2, dated 18th February, 1985. Chit Ex. W-2 is also about the sanction of leave. He was required to report on duty on 6th March, 1985. But he had not turned up. On one hand the allegations of the management are that it had issued letters Ex. M-3, dated 11th March, 1985 and Ex. M-4, dated 14th March, 1985 directing him to report on duty and then,—vide Ex. M-5, dated 19th March, 1985 his name was dropped from muster roll and one month's notice pay and retrenchment compensation were sent to him by way of money orders Ex. M-6. On the other hand the claim of Shri Jha is that he himself had fallen sick and he had sent applications for extension of his leave along with medical certificate and he had reported on duty on 21st March, 1985 but he was not allowed to resume the same. His allegations are that he had been in the service since 1982 and the same has been terminated in an arbitrary manner and against the material provision of the said Act and as such he be reinstated into his job with continuity of service and further with full back wages.

3. My learned predecessor had framed the material issues on 29th August, 1985 :—

(i) Whether the reference is bad in law as workman has abandoned the job of his own accord ?

(ii) As per reference ?

On behalf of the respondent its time office clerk has appeared. There is statement of Shri Jha also. I have heard parties as represented above. The findings Issuewise are as below :—

4. *Issue No. 1.*—It has been alleged by the respondent that Shri Jha had not turned up after availing the leave despite of 2 letters Ex. M-3 and M-4 and finding no way out his name was dropped from the muster roll on 19th March, 1985,—vide Ex. M-5 and retrenchment compensation as required under section 25-F of the said Act were sent to him by money orders Ex. M-6 and on the face of it the said procedure adopted by the respondent is proper and valid. An attempt has been made to have recourse to the terms and condition of appointment letter Ex. M-1, dated 9th January, 1983 and special reference has been made to para 8-B, according to which name had to be struck off if there was continuously absence of 8 days. To strengthen this arguments, reliance has been placed on 1984 Labour Law Notes Vol. I Page 779. According to the said ruling certified standing orders have statutory force and employee has to face termination after absence of 8 days. In my opinion this contention falls down as respondent's clerk has stated that in the company there are no certified standing orders. His statement has washed away para 8-B if any of employment orders, dated 9th January, 1983. No other rule or regulation has been brought to my knowledge to the effect that service would be terminated after the absence of eight days.

5. Now coming to the real controversy between the parties it is to be held that this workman had not abandoned or relinquished his job as alleged. During the course of arguments it has come to light that he belongs to District Maduham in Bihar which is at a distance of 1200 K. M. from Faridabad and as such it was naturally very difficult for this workman to leave home while he was sick. I feel that he has produced two postal receipts of registered letters addressed to the respondent. Medical fitness certificate W-3, dated 19th March, 1985 is to the effect that he had remained sick from 4th March, 1985 to 17th March, 1985 and he had submitted the fitness certificate to the respondent but he was not allowed to resume the duty. It is found true as on file there is postal receipt dated 21st March, 1985 and acknowledgement thereof dated 22nd March, 1985. It is a pity that respondent has withheld these 3 registered letters addressed to it by this poor workman. On the basis of the plea taken by the respondent it has been submitted that as reference is bad since real dispute has not been referred to the Labour Court. Reliance is being placed on 1984-LLN-Page 297 in which there is reference of 1982 II Labour Law Notices 762. This contention would have some force had this workman abandoned the job as alleged. If it is not so as in my considered opinion reference is a valid one. This issue is hereby decided against the respondent,

6. *Issue No. 2.*—This issue is to some extent covered by the discussion on issue No. 1. Shri Jha had been in service since 1982 and since then he must have earned money leave also and it is presumed that still he had some leave at his credit. The details thereof however have not been disclosed by the respondent. It is a case whether Shri Jha had proceeded on leave after sanction and there is nothing suprising if he had overstayed due to his sickness and naturally he had to take some time to recover to cover the distance of 1200 K. M. to attend the duty. It appears that letters, dated 11th March, 1985 as well as 14th March, 1985 as well as money order also could not be delivered to the workman, since he had left his village for Faridabad and return covers have not been produced by the respondent. On the face of it there was no justification for the respondent to struck off his name from the roll especially when he had sent two registered letters for the extension of leave. This recourse adopted by the respondent appears to be un-justified. Accordingly, I hereby quash the impugned order and direct the respondent to adjust the said period against the leave due to him. He is hereby reinstated into his job with continuity of service. He is also awarded full back wages @ Rs 420 per month with effect from 19th March, 1985 till he is reinstated into his job. This amount is not to be calculated by the Labour Department under section 33-C(1) of the said Act and compel the respondent to make the payment at the earliest possible.

Dated, the 26th March, 1987.

A. S. CHALIA,

Presiding Officer,
Labour Court,
Faridabad.

Endorsement No. 612, dated the 8th April, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,

Presiding Officer,
Labour Court,
Faridabad.

No. 9/3/87-6Lab./2614.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Trident Axles Pvt. Ltd., 13/6, Mathura Road, Faridabad :—

IN THE COURT OF SHRI A. S. CHALIA, PRESIDING OFFICER, LABOUR COURT,
FARIDABAD

Reference No. 233 of 1983

between

SHRI RAM ASSREY, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S.
TRIDENT AXLES PVT. LTD., 13/6, MATHURA ROAD, FARIDABAD.

Present :

Shri Manohar Lal for the workman.

Shri M. K. Bhandari for the respondent.

AWARD

This reference under section 10(1)(c) of Industrial Disputes Act, 1947 (Act No. 14 of 1947) as amended from time to time and latest by Act No. 49 of 1984 (hereinafter referred as the said Act) was made to this Court by the State of Haryana (Department of Labour)—vide its endorsement No. ID/FD/90-83/33996—34000, dated 21st July, 1983, to adjudicate upon the dispute of service matter covered by Second Schedule under section 7 of the said Act, arisen between Shri Ram Assrey, workman and the respondent-management of M/s Trident Axles Pvt. Ltd., 13/6, Mathura road, Faridabad. Accordingly, it has been registered as reference No. 233 of 1983.

2. Ram Assray had been in the service of the respondent since September, 1980 and drawing Rs. 345/- per month. His allegations are that his service were wrongly terminated on 18th February, 1983 and as such, he be reinstated into his job with continuity of service and further with full back wages.

3. On notice, respondent had filed a detailed written statement dated 7th June, 1984 with the permission of Court it was got amended and another written statement was filed on 31st July, 1985. Ram Assray had to file afresh replication. My learned predecessor had framed material issues on 25th June, 1984. Ram Assray had appeared in support of his claim while Accountant Sham Bansal and works manager Rakesh Sud had appeared on behalf of the respondent. Another application was made by the respondent taking the plea of closure also and about the same material issues was framed on 17th October, 1985. The respondent-management had absented on 22nd November 1985 and case had to be proceeded in an *ex parte* manner against them. My learned predecessor had accepted the reference and passed award in favour of Ram Assray, *vide* his speaking order, dated 16th January, 1986. Respondent had made an application on 16th January, 1986 for setting aside the said award and my learned predecessor has accepted the said application, *vide*,— his order, dated 1st April, 1986 and respondent was allowed to lead additional evidence. One Gurbinder Singh was got summoned and he had not come present and warrant bailable had to be issued to procure his arrest and ultimately he had come present on 26th November, 1986 and stated that Ram Assray is not known to him. The case had to be adjourned from date to date but without any progress. Again to day no body is present on behalf of the respondent though Court is likely to rise for the day.

4. I have heard Shri Manohar Lal, Representative of the workman and he has repeated his contentions since raised before my learned predecessor. From the side of respondent there is no Representation and moreover there has been no improvement in the case since respondent was proceeded *ex parte* by my learned predecessor,—*vide* his order, dated 22nd November, 1985. There is hardly any reason to have a different view from that, taken by my learned predecessor. Accordingly I hereby endorse award, dated 16th January, 1986 passed by my learned predecessor and it is to be read in addition to my present order. The order of termination is hereby set aside and Ram Assray is reinstated into his job with continuity of service. He is entitled for back wages also @ Rs. 345/- per month from September, 1980. The said amount is now to be calculated by the Labour Department under section 33-C (1) of the said Act, and it is hoped that the workman would not be directed to knock again the door of Labour Court for computation of his back wages. He has already suffered a lot. It appears that case of workman get back gears instead of proceeding up in their favour.

Dated, the 26th March, 1987.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

Endst. No. 611, dated the 8th April, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

A. S. CHALIA,
Presiding Officer,
Labour Court, Faridabad.

The 26th May, 1987

No. 9/2/87-6Lab./2915.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of (i) M/s. Deputy Commissioner, Hisar (ii) Municipal Committee, Hisar.

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 228 of 1985

between

SHRI TEJ, RAM WORKMAN AND THE MANAGEMENT OF M/S. (I) DEPUTY
COMMISSIONER, HISAR, (II) MUNICIPAL COMMITTEE, HISAR.

Present:—

Shri T. C. Gupta, A. R. for the workman.

Shri W. C. Mehta, A. R. for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute, between the workman Shri Tej Ram, and the management of M/s. (i) Deputy Commissioner, Hisar. (ii) Municipal Committee, Hisar, to this Court, for adjudication,—vide *Haryana Government Gazette*, Notification No. 51579—84, dated 20th February, 1983:—

Whether the termination of services of Shri Tej Ram. is justified and in order ?
If not, to what relief is he entitled ?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a Moharrir on 19th May, 1982 and worked as such upto 30th May, 1985, upon which date his services were terminated without complying with the mandatory provisions of Section 25F of the Industrial Disputes Act, 1947 (hereinafter referred to as the Act). So, he has claimed reinstatement with continuity of service and full back wages.

3. In the reply filed by the respondent, preliminary objection taken is that in the year 1982 a list of 25-30 candidates had been prepared for being appointed as Octroi Moharrir in the respondent committee and persons from that list used to be appointed temporarily in case of any leave vacancy. On merits, it is admitted that the petitioner was appointed in leave vacancy of Shri Sohan Lal, Octroi Moharrir, who had been placed under suspension and that after reinstatement of said Sohan Lal, services of the petitioner were dispensed with. Another plea taken is that under the New Service Rules fresh appointment of Octroi Moharrir could be made by the Deputy Commissioner only, so, the petitioner was not appointed by the Deputy Commissioner after reinstatement of Shri Sohan Lal.

4. On the pleadings of the parties, the following issue was settled for decision by me on 3rd June, 1986:—

(1) As per terms of reference.

5. In support of his case, the petitioner appeared as WW-1 and respondent examined MW-1 Shri Jagmal Singh, its Clerk.

6. Learned Authorised Representatives of the parties heard. My findings on the issues framed are as below:—

7. Petitioner's appointment as alleged is not denied by the respondent. Ex. M-1 is a copy of the order,—vide which, petitioner was appointed as a Octroi Moharrir in place of Shri Sohan Lal, who had been placed under suspension and his services were dispensed with on 20th May, 1985. So, on the date, petitioner's services were dispensed with, he had worked for about more than three years with the respondent. Prior to that also petitioner used to be appointed for short durations in lieu of leave vacancy. Copies of the orders are Ex. M-5 and M-6. A question arose as to whether the petitioner had put in 240 days of actual work with the respondent on the date his services were dispensed with during the last 12 calendar months. This stands clinched from the statement filed by the respondent dated 26th November, 1986 between May 1984 to April, 1985, the petitioner had put in 342 days of actual work with the respondent, which is far in excess of the statutory days required under section 25(2) of the said Act. Once an employee completes 240 days of actual work his services cannot be terminated or retrenched without complying with the mandatory provisions of Section 25F of the said Act, because his termination would fall within the ambit of 'term retrenchments' as defined in section 2(oo) of the said Act. No compliance of the mandatory provisions was made by the respondent meaning thereby that no prior notice pay or retrenchment compensation was paid to the petitioner. So, the order dispensing with the services was illegal and unlawful and the respondent cannot be allowed to press into service a plea that his service tenure was not extended by the Deputy Commissioner, who had in the mean time become the appointing authority of the municipal employees of certain categories under the new service rules framed by the Government Haryana. So, order of termination is set aside. The petitioner is ordered to be reinstated with continuity of service and full back wages. Full back wages have been awarded, because the petitioner raised the demand notice within seven months of his termination. The reference is answered and returned accordingly with no order as to cost.

Dated, the 16th April, 1987.

B. P. JINDAL,
Presiding Officer,
Labour Court, Rohtak.

Endst. No. 228-85/914 dated 1st May, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.

No. 9/2/87-6Lab./3057.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Mohan Spinning Mills, Rohtak :—

BEFORE SHRI B. P. JINDAL, PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 22 of 1987

between

SHRI RAMESHWAR, WORKMAN AND THE MANAGEMENT OF M/S MOHAN
SPINNING MILLS, ROHTAK

Present

Petitioner in person.

Shri Jitender Kumar for the respondent.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the workman Shri Rameshwar and the management of M/s Mohan Spinning Mills, Rohtak, to this Court for adjudication,—vide Haryana Government Gazette notification No. Rohtak. 113-86/1659-65, dated 13th January, 1987 :—

Whether services of Shri Rameshwar were terminated or he has lost his lien by absentsing himself? To what relief is he entitled on the decision of this issue?

2. After receipt of the order of reference, notices were issued to the parties. The parties appeared. The case of the petitioner is that he was employed with the respondent as a worker since February, 1972 on monthly wages of Rs. 530 and the respondent chose to terminate his services unlawfully on 16th June, 1986 in flagrant disregard of the provisions of the Industrial Disputes Act, 1947.

3. In pursuance of the notice given, the respondent appeared and before a reply could be filed, happily, a settlement was arrived at, whereunder the respondent has agreed to pay gratuity amount to the petitioner on or before 15th June, 1987. His date of appointment with the respondent is the month of February, 1972. The petitioner has made a statement that he does not want to prosecute this reference. The same is answered and returned accordingly with no order as to cost.

B. P. JINDAL

Presiding Officer,
Labour Court, Rohtak.

Dated the 22nd April, 1987.

Endorsement No. 22/87/930, dated the 4th May, 1987.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of I. D. Act, 1947.

B. P. JINDAL,

Presiding Officer,
Labour Court, Rohtak.